

## **HIGHER EDUCATION**

### **COMMISSION ON HIGHER EDUCATION**

Rules Implementing the Higher Education Technology Infrastructure Fund Act

**Proposed Readoption:** N.J.A.C. 9A:13

**Authorized By:** Commission on Higher Education, Laurence Downes, Chair

**Authority:** N.J.A.C. 18A:72A-59 through 71 and P.L. 1997, c. #238

**Calendar Reference:** See Summary below for explanation of exception to calendar requirement.

**Proposal Number:** PRN 2007-352

**Submit written Comments by February 1, 2008 to:**

Ms. Marguerite Beardsley

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The agency proposal follows:

### **Summary**

Pursuant to N.J.S.A. 52:14B-5.1., the rules implementing the Higher Education Technology Infrastructure Fund expire on February 6, 2008. This notice of proposed readoption is designed to readopt the rules without change. As this notice of proposal was submitted to the Office of Administrative Law prior to the expiration date, that date was extended 180 days to August 4, 2008, pursuant to N.J.S.A. 52:14B-5.1c. As the Commission has provided a 60-day comment period on this notice of the proposal, this notice of proposal is excepted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

An administrative review has been conducted, and a determination made that the rules should be continued because the rules are reasonable, adequate, efficient, and responsive for the purposes for which they were promulgated.

On September 3, 1997, the Higher Education Technology Infrastructure Fund Act (P.L. 1997, c. #238) was enacted, creating a capital bond initiative to help New Jersey colleges and universities develop the integrated technology infrastructure important to their effectiveness and efficiency. The law established a fund with the New Jersey Educational Facilities Authority (EFA) to build that infrastructure, both within and among institutions, and to enhance connectivity with libraries and elementary/secondary schools. The fund made available \$50 million for these purposes, with a \$5 million set aside for interconnectivity projects. EFA issued bonds to finance the institutions' acquisition of technology infrastructure, which is defined as video, voice, and data telecommunications equipment and linkages, including transport services and network interconnections. The fund is renewable, upon approval of the State Treasurer, but has never been renewed.

The Commission on Higher Education, in consultation with EFA, promulgates rules implementing the Act. The rules ( N.J.A.C. 9A:13) ensure that bond moneys are distributed for projects consistent with the intent of the enabling legislation. Approval by the Commission is required before a grant from the fund can be awarded, and the rules specify the approval process for all institutional projects financed through the infrastructure fund. The Commission has approved expenditures of almost all of the \$50 million, but as of the date of filing this proposal, \$55,150.49 remains of the interconnectivity set-aside. The Commission wishes to maintain regulatory coverage until all funds have been awarded.

A summary of the rule sections follows:

N.J.A.C. 9A:13-1.1 sets forth the chapter's purpose and authority.

N.J.A.C. 9A:13-1.2 supplies definitions pertinent to the rules.

N.J.A.C. 9A:13-1.3 details the allocations, requires institutional matching funds, and indicates how future allocations and reallocations will be determined.

N.J.A.C. 9A:13-1.4 specifies the criteria the Commission will use in reviewing proposals for grants from the infrastructure fund.

N.J.A.C. 9A:13-1.5 delineates the required contents of the proposals and addresses the matching fund requirements, revised acquisitions, and the interconnectivity funds.

N.J.A.C. 9A:13-1.6 delineates the grant authorization process.

N.J.A.C. 9A:13-1.7 contains annual reporting requirements.

### **Social Impact**

As the Infrastructure Fund Act explains, an integrated technology infrastructure, which included connectivity within and among institutions and with libraries and elementary and secondary schools, will enable students and faculty to access information and educational opportunities. Moreover, consortia arrangements and distance learning offer significant potential for increasing access to higher education. The infrastructure fund fosters technological enhancements to promote these aims. All New Jersey public colleges and universities, as well as private institutions eligible for aid under the Independent College and University Assistance Act, are eligible to apply for grants from the infrastructure fund. Readoption of the existing rules will maintain regulatory coverage until grants from the remaining balance are awarded. Also, having rules in place will expedite institutional applications and project approval if the trust fund is renewed.

### **Economic Impact**

Higher education contributes to economic development by supplying an educated and trained workforce, by advancing knowledge through research and scholarship, and by serving as an information repository. An integrated technology infrastructure increases the cost-efficiency and effectiveness of colleges and universities in carrying out these missions, through both enhanced learning opportunities for students and increased opportunities for institutions to collaborate, share resources, and reduce costs. A dedicated source of funding for higher education's

technology infrastructure is an investment in strengthening New Jersey's competitiveness in a global and highly technological economy. The rules proposed for readoption reflect the allocations specified in the law; the Commission will determine any future allocations.

#### **Federal Standards Statement**

The rules proposed for readoption are not subject to a Federal standards analysis under Executive Order No. 27 (1994) because the technology infrastructure fund was created by the State of New Jersey, is wholly supported by State appropriations, and is not subject to any Federal requirements or standards.

#### **Jobs Impact**

The rules proposed for readoption will not result in the generation or loss of any jobs.

#### **Agriculture Industry Impact**

The rules proposed for readoption will have no impact on the agriculture industry.

#### **Regulatory Flexibility Statement**

A regulatory flexibility analysis is not required because the rules proposed for readoption do not impose reporting, recordkeeping or compliance requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules pertain strictly to public and State-aided private colleges and universities, none of which qualifies as a small business because all have at least 100 full-time employees or are public entities.

#### **Smart Growth Impact**

The rules proposed for readoption will have no impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 9A:13.